

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-220110**DATE:** December 17, 1985**MATTER OF:** Talmadge M. Gailey

DIGEST: Army employee whose use of his privately owned vehicle was determined to be advantageous to the Government is entitled to mileage for travel on a daily basis between his place of abode and his alternate duty point under Volume 2 of the Joint Travel Regulations. Under paragraph C2153 Department of Defense components do not have discretion to limit the payment of mileage to the mileage amount by which his travel to the alternate duty site exceeds the employee's commute between his residence and his permanent duty station.

The question in this case is whether Mr. Talmadge M. Gailey, an employee of the Department of the Army, is entitled to a mileage allowance for the use of his privately owned vehicle on official business between his place of abode and an alternate duty point where travel by privately owned vehicle was determined to be advantageous to the Government.^{1/} We conclude that Mr. Gailey is entitled to mileage for such travel.

Background

Mr. Gailey is a quality assurance inspector whose permanent duty station is Fort Eustis, Virginia. During the period from July 1984 through March 7, 1985, he was assigned to the Hampton Marine Railway Terminal to perform duties in connection with the contractor's repair of Army vessels. During this period Mr. Gailey did not report to Fort Eustis, but on a daily basis drove his own vehicle from his residence in Saluda, Virginia, directly to Hampton. Hampton,

^{1/} This action is in response to a request for a decision received from Major P. L. Capestany, Finance and Accounting Officer, Finance and Accounting Division, U.S. Army Transportation Center, Fort Eustis, Virginia. The Per Diem, Travel and Transportation Allowance Committee has assigned the request Control Number 85-27.

Fort Eustis, and Saluda are considered to be within the same commuting area. The distance between Saluda and Fort Eustis is 39 miles, while the distance between Saluda and Hampton is 49 miles.

In accord with installation policy concerning use of privately owned vehicles, Mr. Gailey's use of his vehicle for local transportation to and from Hampton during the period in question was approved as being advantageous to the Government. Initially Mr. Gailey was reimbursed on a mileage basis for his daily round-trip travel of 98 miles between his residence and Hampton. However, in December 1984, the finance and accounting officer limited payment of mileage to the difference between the Saluda-to-Terminal distance and the Saluda-to-Fort Eustis distance--10 miles each way for each day of work. In disallowing Mr. Gailey's claim for an additional 78 miles each day, the finance and accounting officer relied upon Comptroller General decisions giving agencies discretion to limit mileage reimbursement for travel between an employee's residence and places of temporary duty in the vicinity of headquarters to the amount that exceeds the distance between his residence and his permanent duty station. He also cites the general principle that an employee must bear the expense of commuting to his job and points out that there is no local agency policy governing the payment of mileage in this situation. In claiming the additional mileage that has been disallowed, Mr. Gailey relies upon Joint Travel Regulations (JTR), vol. 2, para. C2153 as mandating the payment of mileage for the full distance each way between his residence in Saluda and his alternate duty point, the Hampton Marine Railway Terminal.

Analysis and Conclusion

We have long held that agencies have discretion to limit the mileage allowance paid for travel between an employee's residence and a temporary duty site when use of a privately owned vehicle is approved as advantageous to the Government. 36 Comp. Gen. 795 (1957). Prior to September 1, 1970, Department of Defense components had discretion to limit the mileage allowance paid for travel beginning at an employee's residence. Under 2 JTR para. C6153 (Change No. 43, Feb. 1, 1969), the predecessor to 2 JTR para. C2153, mileage could be limited to an amount

representing the mileage difference between reporting to the employee's permanent duty station and the temporary duty station. However, effective September 1, 1970, this regulation was amended to mandate payment of mileage for the entire distance traveled from an employee's place of abode to his temporary duty station and return when the use of the automobile was determined to be advantageous to the Government.^{2/} 2 JTR para. C6153 (Change No. 59, September 1, 1970). This regulation was renumbered in 1976. 2 JTR para. C2153 (Change No. 131, September 1, 1976). As in effect during the period of Mr. Gailey's assignment to Hampton, 2 JTR para. 2153 (Change No. 212, June 1, 1983), allows no discretion, but mandates payment of mileage for the entire distance to an alternate duty point when travel begins at the employee's place of abode and the employee does not first travel to his regular place of work. Joe B. Knight, B-210660, September 27, 1983, aff'd., B-210660, December 26, 1984. Since individual Department of Defense components no longer have discretion to limit the payment of mileage to an alternate duty point when an employee travels directly from his place of residence, the finance and accounting officer's disallowance of Mr. Gailey's claim for an additional 78 miles each day is contrary to the controlling regulation.

The finance and accounting officer has also raised a question concerning the location of Mr. Gailey's permanent duty station. He asks whether, during Mr. Gailey's assignment to the Hampton Marine Railway Terminal, the Terminal became Mr. Gailey's permanent duty station. The question is significant because an employee must bear the expenses of commuting between his place of abode and his permanent duty station. Gretchen Ernst, B-192838, March 16, 1979. Mr. Gailey's assignment to the Hampton Marine Railway Terminal was for the purpose of monitoring repair work on four vessels. It was not intended to be of indefinite duration and, in fact, it lasted 8 months. In the case of prolonged assignments, 2 JTR para. C4455 provides:

^{2/} For a brief period in 1981, 2 JTR para. 2153 (Change No. 185, March 1, 1981) again gave Department of Defense components authority to limit mileage reimbursement for travel between an employee's residence and an alternate duty point.

B-220110

"When a period of temporary duty assignment at one place will exceed 2 months, consideration will be given to changing the employee's permanent duty station unless there is reason to expect the employee to return to his permanent duty station within 6 months from the date of initial assignment or the temporary duty expenses are warranted in comparison with permanent change-of-station movement expenses."

The finance and accounting officer has furnished nothing to indicate that a determination was made to change Mr. Gailey's permanent duty station. To the contrary such documentation as he has furnished indicates that the Hampton Marine Railway Terminal was a temporary duty site and the nature and duration of that assignment does not establish otherwise. Accordingly, Mr. Gailey is entitled to be paid mileage from his place of abode to his alternate duty point and return according to 2 JTR para. C2153 (Change No. 212, June 1, 1983).



Acting Comptroller General
of the United States